THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12019 of 2004

Dated:31.08.2006

Between:

Sri Mittapally Ananthagiri.

…Petitioners

and

The State of A.P., and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.12019 of 2004

ORDER:

The petitioner purchased an extent of Acs.2.00 of land in Survey No.1026/Ru situated at Alair Village and Mandal in Nalgonda District, from M/s.Bingi Kailasham and Buchi Ramulu under a registered sale deed dated 29.06.2000, who earlier purchased the said property from Janagoan Bagyamma, W/o.Shankaraiah. They also obtained pattadar pass books from the Mandal Revenue Officer. The second respondent initiated action purportedly under Section 166-B of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli (for short 'the Land Revenue Act'), and issued show cause notice to as many as sixty three persons to whom laoni pattas were granted and on allegation that the assignees are not in possession and that there is no cultivation, cancelled the assignment by proceedings dated 11.07.2003. This Writ Petition is filed assailing the said proceedings. Today interlocutory applications are listed before this Court i.e.,W.V.M.P.No.1744 of 2005 and W.P.M.P.No.15279 of 2004. However, with the consent of the learned Counsel, the matter itself is heard and is being disposed of by this order.

It is the case of the respondents that the land admeasuring Acs.104.22 guntas in Survey No.1026 is classified as "Bancharai", out of which an extent of Acs.80.32 guntas was assigned to as many as

sixty three persons, that the assignees did not cultivate the land and that some of the assignees sold away the land. Therefore, the Mandal Revenue Officer submitted proposals for cancellation of the assignment for violation of the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). Thereafter, in exercise of the powers delegated to him by the District Collector by proceedings dated 13.08.2002, the Revenue Divisional Officer cancelled the assignment after following due procedure.

The learned counsel for the petitioner raised two contentions. First, it is not competent for the Revenue Divisional Officer under Section 166-B of the Land Revenue Act to cancel the assignment. Secondly, the impugned order without notice to the petitioner or his vendors is bad in law.

The submission that the Revenue Divisional Officer is not competent to pass orders under Section 166-B of the Land Revenue Act is rebutted by the respondents placing reliance on the proceedings of the District Collector in proceedings No.E1/13496/02, dated 13.08.2002, whereunder the powers under Section 166-B of the Land Revenue Act were delegated by the District Collector to the Revenue Divisional Officer. Such delegation is permissible under Section 7(2) of the Land Revenue Act. The fact that powers are delegated to the Revenue Divisional officer is not specifically denied by filing a reply affidavit. Therefore, this Court is not inclined to accept the submission. Insofar as the contention that no notice is issued is concerned, there is no specific denial in the counter affidavit nor a perusal of the impugned order would show that there is any such notice to the petitioner's vendors, who purchased the property from Janagoan Bagyamma, W/o.Shankaraiah, under a registered sale deed dated 11.02.2000 or to the petitioner who purchased on 29.06.2000. Therefore, for this reason alone, the impugned order insofar as the petitioner is concerned cannot be sustained.

In the result, the Writ Petition is allowed to the extent of land admeasuring Acs.2.00 in Survey No.1026/Ru which was purchased by the petitioner from the vendees of Janagoan Bagyamma, W/o.Shankaraiah (original assignee). It shall, however, be open to the Mandal Revenue Officer to initiate appropriate action under the provisions of the Act against the petitioner. No costs.

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(V.V.S.RAO, J)

31.08.2006

vs